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# Public Notice

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**Applicant:**

Clover  
Management, Inc.

**Date:**

Construction Published: February 21,  
2002

**Expires:** March 25, 2002

**U.S. Army Corps  
of Engineers**

**In Reply Refer To:**

**Buffalo District CELRB-CO-R RE: 98-976-0006(5) Section: NY 404**

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**Application for Permit under Authority of  
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

Clover Construction Management, Inc., 1430 Millersport Highway, Williamsville, New York 14221, proposes to place fill into Federal jurisdiction wetlands in order to construct a residential subdivision on an approximately 37 acre parcel. The parcel is located East of Forestal Drive, in the Village of Hamburg, Erie County, New York.

The project consists of the following:

a. Approximately 1.5 acres of fill will be placed within scrub/shrub wetland for the construction of the proposed Country Meadows Subdivision. The wetlands to be filled are part of an approximately 6.12 acre wetland (Wetland A) adjacent to a previously modified stream channel which eventually flows into a tributary to Lake Erie. In addition, the project site contains an approximately 0.06 acre wetland area (Wetland B) which is also adjacent to the previously modified stream channel. All of the wetland areas are dominated by cottonwood (*Populus deltoides*), and green ash (*Fraxinus pennsylvanica*) with some red maple and American elm. The wetlands are seasonally saturated and do not support unique or especially high quality habitat. The project design avoids approximately 4.43 acres of Federal wetlands which will remain undisturbed or be part of the mitigation area. The avoided wetlands include both successional forested wetland and scrub/shrub wetland. Wetland B is forested and located north of Wetland Area A.

b. As mitigation for impacts to wetlands on the project site, the applicant proposes to create 0.50 acres of wet meadow and robust emergent marsh wetland connected by a series of wetland swales. Enhancement of 2.5 acres of existing wetland by creating areas of emergent marsh, which will be connected to the wetland swale complex, is also proposed. The proposed mitigation is located within the parcel and the hydrology for the mitigation will be obtained from an existing tributary located within the parcel. The mitigation will attempt to increase the quality of existing wetlands by creating new wetlands in an upland area and improve existing wetland function by creating a more diverse habitat within the parcel.

c. The proposed development consists of two combined parcels. A Department of the Army Nationwide permit was previously affirmed for impacts to approximately 0.75 acres of isolated wetlands on the western parcel for a similar development. The previously authorized work was never constructed. A 2001 U.S. Supreme Court decision ruled that isolated wetlands are not subject to regulation under Section 404 of the Clean Water Act. In light of this decision, the wetlands delineated on the western parcel were reevaluated, both in the field and through a search of historic references and it was determined that these wetlands are isolated, intrastate and nonnavigable waters and outside of Corps of Engineers jurisdiction. Therefore, these wetland areas do not appear on the enclosed project drawings. The eastern parcel, which contains the wetlands discussed in "a" and "b" above, was added to the project in order to decrease the overall development density and increase available green space.

The applicant's stated purpose is to construct a residential subdivision community for housing in the Village of Hamburg, New York.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Martin H. Crosson, who can be contacted by calling (716) 879-4346, or by e-mail at: martin.h.crosson@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, and should be marked to the attention of Martin H. Crosson, or by e-mail at: martin.h.crosson@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain

information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner  
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.

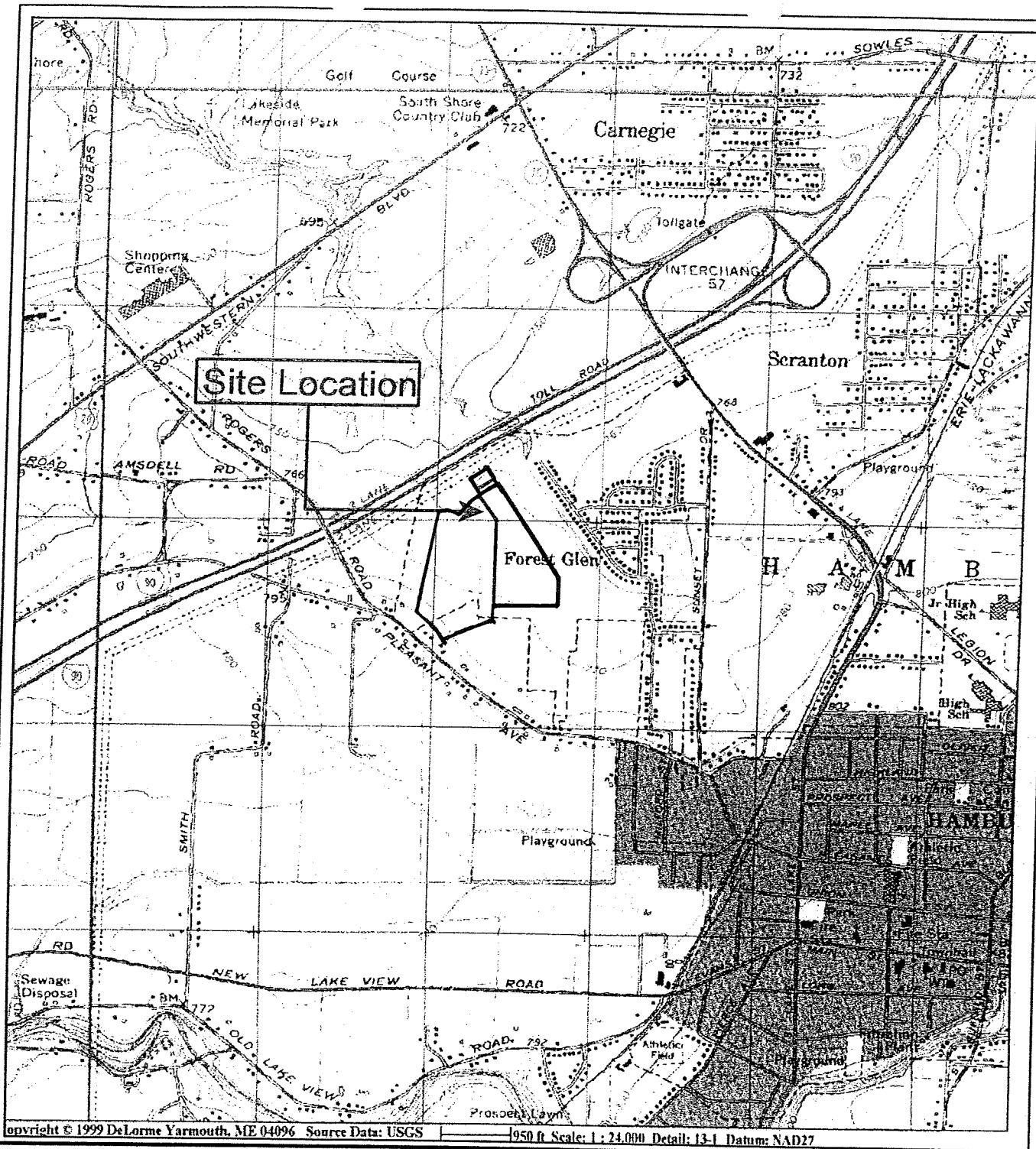


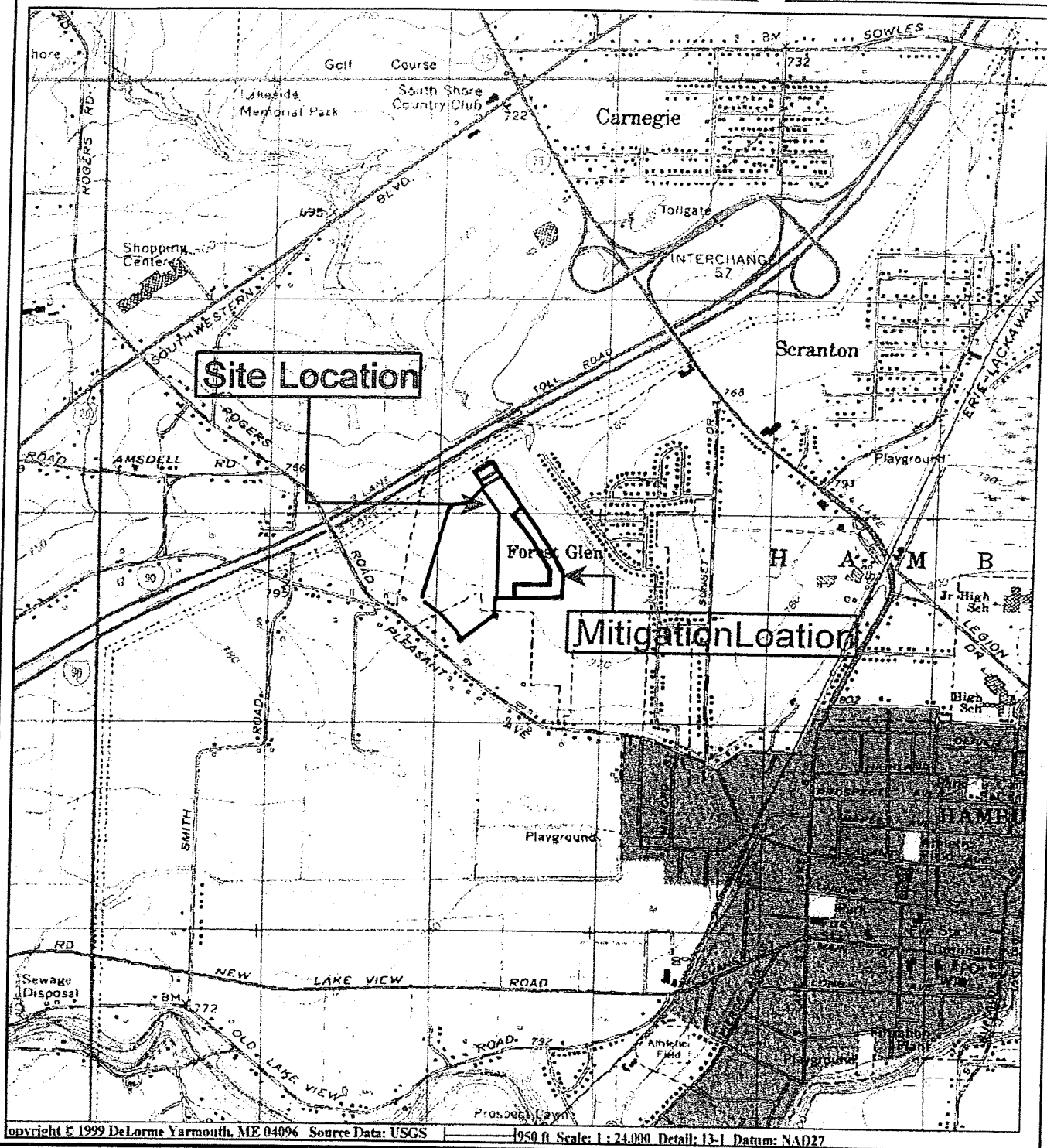
Figure 1.  
USGS Quadrangle Map

Hamburg, NY Quadrangle  
Scale 1:24000



## COUNTRY MEADOWS EXPANSION Clover Construction

COUNTRY MEADOWS SUBDIVISION -  
CLOVER CONSTRUCTION MANAGEMENT  
D/A Processing No. 98-976-0006(5)  
Erie County, New York Quad: HAMBURG  
Sheet 1 of 5



**Figure 2.**  
USGS Quadrangle Map

Hamburg, NY Quadrangle  
Scale 1:24000



## COUNTRY MEADOWS EXPANSION Mitigation Location

COUNTRY MEADOWS SUBDIVISION -  
CLOVER CONSTRUCTION MANAGEMENT  
D/A Processing No. 98-976-0006(5)  
Erie County, New York Quad: HAMBURG  
Sheet 2 of 5

PLEASANT AVENUE

CROWNVIEW TERRACE

BROOKWOOD DRIVE

1.5± ACRE  
WETLAND IMPACT  
UNDISTURBED  
WETLAND AREA

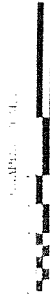
FORESTAL DRIVE

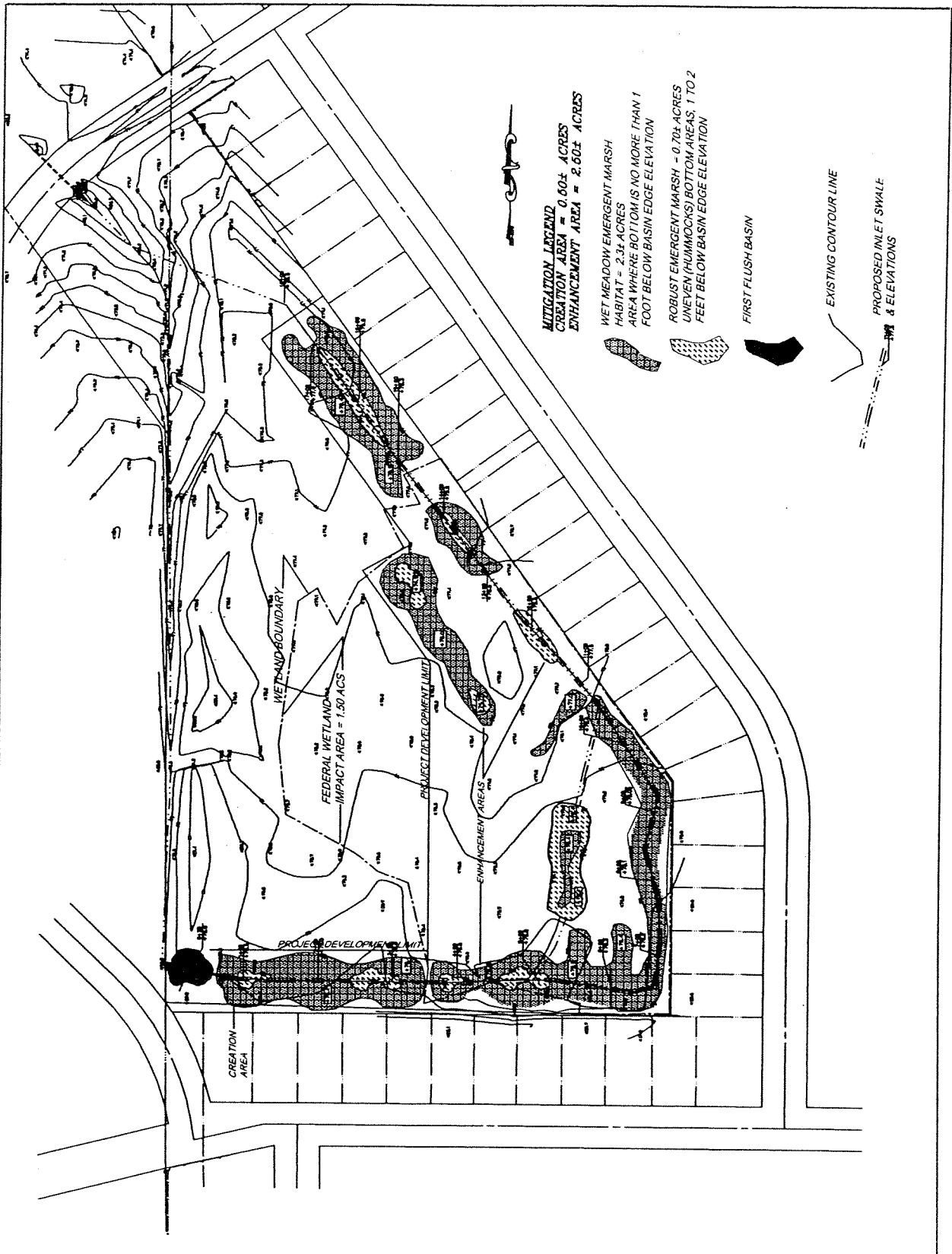
FOX CROFT DRIVE

OAK HILL DRIVE

COUNTRY MEADOWS SUBDIVISION -  
CLOVER CONSTRUCTION MANAGEMENT  
D/A Processing No. 98-976-C006(5)  
Erie County, New York Quad: HAMBURG  
Sheet 3 of 5

Erie County, New York	
HAMBURG	
1.5± ACRE	
WETLAND IMPACT	
UNDISTURBED	
WETLAND AREA	
CLOVER CONSTRUCTION MANAGEMENT	
D/A Processing No. 98-976-C006(5)	
Erie County, New York Quad: HAMBURG	
Sheet 3 of 5	





MITIGATION LEGEND  
 CREATION AREA = 0.60± ACRES  
 ENHANCEMENT AREA = 2.60± ACRES

WET MEADOW EMERGENT MARSH  
 HABITAT = 2.3± ACRES  
 AREA WHERE BOTTOM IS NO MORE THAN 1  
 FOOT BELOW BASIN EDGE ELEVATION  
 ROBUST EMERGENT MARSH - 0.70± ACRES  
 UNEVEN (HUMMOCKS) BOTTOM AREAS, 1 TO 2  
 FEET BELOW BASIN EDGE ELEVATION

FIRST FLUSH BASIN

EXISTING CONTOUR LINE

PROPOSED INLET SWALE  
 & ELEVATIONS

WETLAND MITIGATION CONCEPT PLAN

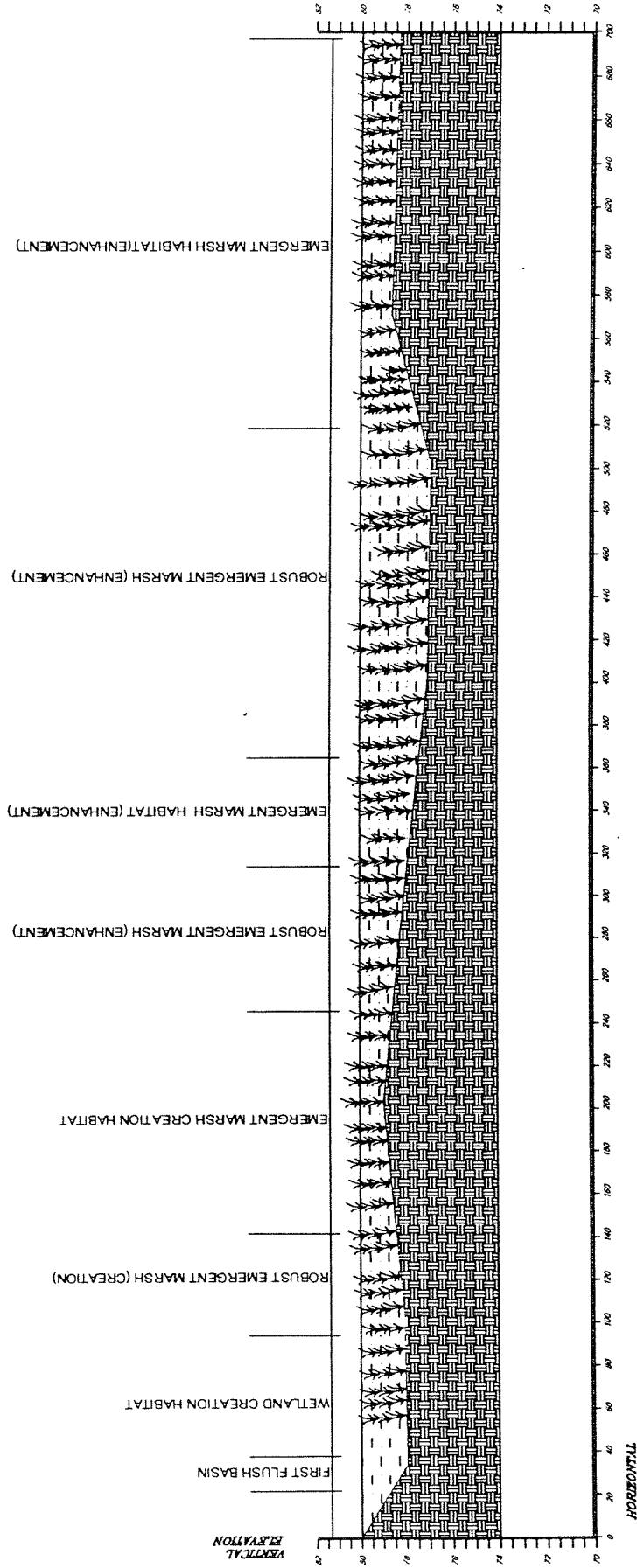
SCALE 1" = 50'

COUNTRY MEADOWS  
 VILLAGE OF HAMBURG, ERIE COUNTY, NY

COUNTRY MEADOWS SUBDIVISION -  
 CLOVER CONSTRUCTION MANAGEMENT  
 D/A Processing No. 98-976-0006(5)  
 Erie County, New York Quad: HAMBURG  
 Sheet 4 of 5



COUNTRY MEADOWS SUBDIVISION -  
CLOVER CONSTRUCTION MANAGEMENT  
D/A Processing No. 98-976-0006(5)  
Erie County, New York Quad: HAMBURG  
Sheet 5 of 5



**LEGEND**

ROBUST EMERGENT ELEVATION VARIES  
CREATION = 0.5± ACRES  
ENHANCEMENT = 2.5± ACRES  
TOTAL MITIGATION = 3.0± ACRES

A-A CROSS-SECTION  
SCALE = AS SHOWN

- CONSTRUCTION NOTES:
1. ALL EXCAVATED AREAS TO BE OVEREXCAVATED BY 8" - 10" TO BE REPLACED WITH TOPSOIL.
  2. FINAL GRADES SHALL BE IRREGULAR AS DIRECTED BY WETLANDS CONSULTANT.
  3. UPLAND HABITAT AREAS TO REMAIN AT EXISTING GRADE ELEVATION.
  4. EMERGENT MARSH TO BE SEED WITH WETLAND HUMMOCK SEED MIXTURE AT A RATE OF 325 LBS/AC.
  5. ALL APPROPRIATE EROSION CONTROL METHODS TO BE APPLIED DURING CONSTRUCTION.
  6. SIDE SLOPES LEADING FROM ADJACENT RESIDENTIAL PROPERTIES SHALL BE NO STEEPER THAN 4:1. OTHER SLOPES SHALL APPROACH 8:1.